



TOWN OF CHINCOTEAGUE, INC

October 9, 2015

Barbara Okorn
EPA Region III
Office of Environmental Programs
1650 Arch Street
Philadelphia, PA 19103-2029

RE: NEPA Compliance Review
Chincoteague NWR Final CCP/EIS

Dear Ms. Okorn:

EPA issued notice of the Final Environmental Impact Study (EIS) for Chincoteague and Wallops Island National Wildlife Refuge (EIS Number 20150262) with a review period date of 10/19/2015. As you evaluate the Final EIS for NEPA compliance, we ask that you please consider the following concerns:

1. The Final EIS describes a generalized planning process which defers the study of proposed federal management actions and any cumulative impacts on the human environment to a future Environmental Assessment (EA) process that will be limited in both geographic scope and scientific detail.

The proposed federal actions to relocate the recreational beach and abandon affirmative maintenance actions for stability and resiliency along the remaining coastal shoreline should not be completed under a limited EA process.

Please consider requesting FWS to continue the full EIS review of unresolved issues within the entire Refuge land area following adoption of the combined CCP/EIS in order to determine full NEPA compliance.

2. Executive Order 11988 Floodplain Management requires that FWS 'provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains'..., and evaluate proposed management actions which would significantly affect the quality of the human environment using the 'best available information'. (Section 1 and 1(a)(1))

Concurrently with the CCP/EIS, FEMA prepared a new Coastal Flood Risk Analysis (RiskMAP) for the Mid-Atlantic States that was adopted and made effective on May 18, 2015 in Virginia. For the first time, this flood risk study specifically modelled the beneficial effects of a primary frontal dune system.

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When asked why the Flood Insurance Rate Map information within the Chincoteague National Wildlife Refuge showed flood levels and risk assessment that was 20 years out of date, the response was that FWS was the primary agency responsible for updating information within the Coastal Barrier Resource System (CBRS) and FEMA was not permitted to publish the new information.

Two weeks before the new FEMA mapping was adopted, new CBRS mapping was adopted by FWS on May 4, 2015 which incorrectly shows land area that is now within the Atlantic Ocean and a 50 foot high sand ridge within the flood zone.

Please consider advising FWS that the Final EIS did not use best available floodplain information to evaluate proposed management actions and their impact on the human environment.

3. NOAA Coastal Zone Management Act Guidelines for determining federal consistency require the evaluation of **coastal effects** caused by proposed federal actions. Case law has established that these effects must be 'reasonably foreseeable'.

The FWS Chincoteague and Wallops Island NWR final plan is to reverse 50 years of stabilizing beach and dune management in favor of encouraging an unstable continuous primary phase of ecological succession otherwise known as 'over wash'. The **coastal effects** of this change in federal land management are predictable - because it will restore the conditions of 1962 when a major coastal storm over washed Assateague Island decimating natural habitats and crushing the coastal community of Chincoteague Island. The destruction caused by the '62 Storm has served as a benchmark for FEMA flood risk studies and led to 50 years of active federal management along the barrier island coast to encourage stability of the primary frontal dune system as mandated by Congress in 1965.

Virginia State Code (§28.2-1400 through §28.2-1420) and adopted guidelines (effective September 26, 1980) protect and encourage primary frontal dunes in order to responsibly care for natural land resources that are placed in the public trust.

The Town of Chincoteague has questioned the Virginia Department of Environmental Quality whether the discontinuance of active federal management for stability and adopting a strategy to 'let nature take its course' is consistent with the enforceable policies of the Virginia Coastal Zone Management program.

Please consider advising FWS that the incomplete environmental review and cumulative impact analysis for federal actions is not legally sufficient to determine federal consistency with the enforceable policies of the Virginia CZM program at this time. In addition, federal consistency under Virginia's CZM program applies to all coastal areas with future NEPA analysis, not just the 1 mile recreational beach.

If you have any questions or concerns please do not hesitate to contact me at 757-336-6519.

Sincerely



Robert G. Ritter, Jr.

cc. Mayor & Council
USACE Norfolk District